

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Docket No.: 2045532-5005C5

William G. DENNIS, *et al.*

Serial No.: 10/788,733

Group Art Unit: 3767

Confirmation No.: 6097

Filed: February 27, 2004

Examiner: WITCZAK, Catherine

For: SURGICAL INSTRUMENT SEAL ASSEMBLY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Information Disclosure Statement

Sir:

In accordance with the duty of disclosure under 37 C.F.R. §§ 1.56, 1.97 and 1.98, Applicants respectfully bring the following information listed on accompanying Form PTO-1449 to the attention of the Examiner.

Applicants have listed publication dates on the attached PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants respectfully assert that the documents listed on the accompanying form PTO 1449 may not necessarily be prior art, and accordingly, Applicants reserve the right to prove, when appropriate, that a document is not prior art.

Moreover, Applicants reserve the right to establish the patentability of the claimed invention over any information provided herewith, and/or, to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith. It is further understood that the Examiner will consider information that had been cited by or submitted to the U.S. Patent and Trademark Office in a prior application relied on under 35 U.S.C. §120. 1138 OG 37, 38 (May 19, 1992).

Further to the U.S. Patent and Trademark Office's decision to waive the requirement under 37 C.F.R. §1.98 (a)(2)(i), copies of the U.S. patents and U.S. patent applications are not enclosed herewith. However, if any copies are needed, the Examiner is respectfully requested to contact the undersigned.

Copies of the non-U.S. patents and non-U.S. patent applications documents are enclosed together with a duly completed Form PTO-1449. The Examiner is accordingly requested to consider each of these documents, and to make them of record in this application by initialing in the appropriate spaces on the Form PTO-1449. Applicants respectfully request that the Examiner include a copy of the initialed Form PTO-1449 with the next communication from the U.S. Patent and Trademark Office.

Applicants have checked the appropriate boxes below.

- ☐ 1. This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits OR before the mailing date of a first Office Action after the filing of a request for continued examination under 37 C.F.R. §1.114. No certification or fee is required.
- ☒ 2. This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

- ☐ a. I hereby certify that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).
- ☐ b. I hereby certify that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
- ☒ c. Attached is our check in the amount of \$ 180.00 in payment of the fee under 37 C.F.R. § 1.17(p).
- ☐ 3. This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee. It is hereby requested that the Information Disclosure Statement be considered.
- ☐ a. I hereby certify that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).
- ☐ b. I hereby certify that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making

reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

- ☐ 4. Relevance of the non-English language document(s) is discussed in the present specification.
- ☐ 5. The document(s) was/were cited in a corresponding foreign application. Attached is a copy of the International Search Report.
- ☐ 6. A concise explanation of the relevance of the non-English language document(s) appears below:
- ☐ 7. The Examiner's attention is directed to co-pending U.S. Patent Application No. _____ filed _____, which is directed to related technical subject matter. The identification of this U.S. Patent Application is not to be construed as a waiver of secrecy as to that application now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited application and the art cited therein during examination.
- ☒ 8. Copies of the documents were cited by or submitted to the Office in Application No. 09/885,856, which is relied upon for an earlier filing date under 35 U.S.C. § 120 or one of the related applications. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

Applicants note that an Office Action on the merits has not issued in the present application, and thus no fee is believed necessary to ensure consideration of the submitted material. However, if an Office Action on the merits has issued and is crossing this statement in the mail, the undersigned hereby authorizes the Commissioner to charge any fee necessary for the consideration of this statement, including any payment under 37 C.F.R. §1.17 (p) to Deposit Account No. 23-1951.

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John S. Hiltner', with a long horizontal flourish extending to the right.

John S. Hiltner
Reg. No. 52,518

Date: March 4, 2008

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